

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

AMANDA MCINTYRE,

Plaintiff,

No. 6:21-cv-01709-MK

v.

ORDER

**CITY OF SPRINGFIELD—
SPRINGFIELD POLICE
DEPARTMENT *et al.*,**

Defendants.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mustafa Kasubhai. ECF No. 37. Judge Kasubhai recommends that Defendant Perlow's Motion for Summary Judgment, ECF No. 12, be granted and that the City Defendants' Motion to Dismiss, ECF No. 23, be granted in part and denied in part.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge's findings and recommendations, "the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."). Although no review is required in the absence of objections, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the court should review the recommendation for "clear error on the face of the record."

In this case, Plaintiff has filed Objections, ECF No.39, and Defendant Perlow has filed a Response, ECF No. 50. The Court has reviewed the record, the F&R, the Objections, and Response and finds no error. The F&R, ECF No. 37, is therefore ADOPTED. Defendant Perlow's Motion for Summary Judgment is GRANTED and the City Defendants' Motion to Dismiss is GRANTED in part and DENIED in part as set forth in the F&R. Plaintiff shall have thirty (30) days in which to file an amended complaint.

It is so ORDERED and DATED this 31st day of January 2023.

/s/Ann Aiken
ANN AIKEN
United States District Judge